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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/614,002      | 07/08/2003  | Herbert Schutz       | 32860-000560/US     | 6269             |

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HARNESSE, DICKEY & PIERCE, P.L.C.  
P.O.BOX 8910  
RESTON, VA 20195

EXAMINER

GARTENBERG, EHUD

ART UNIT PAPER NUMBER

3746

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/614,002

Applicant(s)

SCHUTZ, HERBERT

Examiner

Ehud Gartenberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as obvious over Termuehlen 5267434, that teaches the invention as disclosed and as claimed, see Figures 3 and 1, and col. 5, ll. 1-4. A gas turbine installation comprising a gas turbine, a transition piece following the diffuser, and two steam generators fed by lines 24 and 26, having heating surfaces for generation of steam, shown schematically in Fig. 1 and un-numbered. Note that the Termuehlen apparatus can be operated with the gas turbine and only one steam generator by closing louver 22 and closing either louver 24 or 26 and exhausting the exhaust gas through one discharge stack, or with the gas turbine only and without any steam generator by closing both louvers 24 and 26, opening louver 22, and exhausting the exhaust gas through the auxiliary stack. The presently sealing wall reads on closed louver 22, as it seals the gas flow path between the gas turbine and the boiler. Note that the chimney orifice is arranged in a head (i.e., top) region of the transition piece, and that the height of the chimney orifice with respect to the vertical extent of the transition piece is an obvious matter of design choice, because unlike natural convection chimneys, the claimed chimney accommodates a flow that is

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"pushed" through it under pressure by the gas turbine. Method claims 7-13 are rejected because the Termuehlen apparatus performs the steps of the claimed method as disclosed and as claimed. In response to Applicant's amendment, note that the transition piece comprising chimney an exhaust (from turbine 16) gas inlet to the heat recovery structure comprising heat exchangers 28 & 30.

### ***Response to Arguments***

2. Applicant's arguments filed 2/23/2005 have been fully considered but they are not persuasive. Applicant's only argument to distinguish his claimed invention over the applied prior art refers only to the rejection of claim 1 and argues that the heat exchangers only increase the temperature of the water, but do not generate steam. However, Termuehln specifically states on col. 4, ll. 40-42 that the exhaust gas from the gas turbine raises the water temperature to 480F, that is well over the boiling temperature of 212F of water. Regarding the pressure loss argument referring to col. 5, ll. 44-48, note that the pressure losses on the gas path are not related to the pressure losses in the water/steam circuit. Applicant confuses between the two by trying to tie them together.

### ***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ehud Gartenberg whose telephone number is 571 272 4828. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571 272 4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

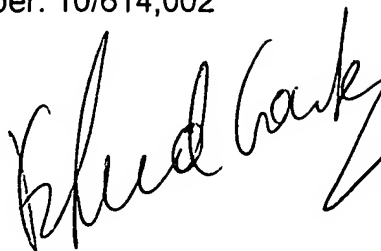
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ehud Gartenberg

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A handwritten signature in cursive script, appearing to read "Edward G. Gandy". The signature is written in black ink and is positioned to the left of the printed name and title.

Primary Examiner  
Art Unit 3746

04252005